

Application No.: 10/020,512  
Amendment dated: October 8, 2004  
Reply to Office Action of July 8, 2004

### **REMARKS/ARGUMENTS**

Claims 1 and 3-30 are pending in the application. Claims 13, 16, 19, 23, 27, and 30 have been amended for purposes of clarity. An Examiner Interview was conducted on October 7, 2004, the contents of which are discussed below.

Reconsideration in view of the above amendments and following remarks is respectfully requested.

### **Rejections under 35 U.S.C. §112**

The Office Action rejects claims 8 and 13-26 under 35 U.S.C. §112, first paragraph. In particular, the Office Action asserts that the specification, while being enabling for the remaining claims, does not reasonably provide enablement for a user model derived using an inverse demographic matrix (IDM) method.

As discussed with the Examiner via telephone on October 7, 2004, Paragraph 327 of the specification states:

To determine individual persons, and not just a group percentage, matching a behavior, current set-top box viewer possibilities may be best fit to IDM calculation specification percentages for any event for the population of some geographic region or set of regions. *In this way, individual behaviors can be determined.* This best fit may be performed by spot-filling in a manner similar to that outlined above. Every person can accounted for by the present invention, whether are at a bar, a neighbor's home, or their own home. The IDM specification percentage may be fit to evolutionary specification percentages for each box, thereby accounting for such deviations.

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(Specification, Paragraph 327) (Emphasis Added).

Thus, as described in Applicants' specification, the IDM is used to determine individual behaviors from a set of anonymous data gathered in a specific geographic area based on the demographic make up of that geographic area. The Examiner has defined a user model as any description of the user useful for targeting ads or promotions. A description of individual behaviors would be useful for targeting ads or promotions. As shown by the paragraph cited above, as well as its surrounding text, the IDM method can be used to derive this user model. Therefore, claims 8 and 13-26 are enabled and the rejection under 35 U.S.C. §112, first paragraph should be withdrawn.

### **Rejections under 35 U.S.C. §103**

The Office Action rejects Claims 1, 3-7, 9-12, and 27-30 under 35 U.S.C. §103(a) over Salgonicoff, U.S. Patent No. 5,734,720 (hereinafter "Salgonicoff"), in view of Jenkins, U.S. Patent No. 6,285,983 (hereinafter "Jenkins"), claims 8, 13-15, and 19-22 under 35 U.S.C. §103(a) over Salgonicoff in view of Gerace, U.S. Patent No. 5,848,396 (hereinafter "Gerace"), and claims 16-18 and 23-26 under 35 U.S.C. §103(a) over Salgonicoff in view of Jenkins and in further view of Gerace. These rejections are respectfully traversed.

Salgonicoff discloses scheduling the receipt of desired movies and other forms of data from a network. (*See Abstract*)

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Applicants assert that Salgonicoff fails to teach or suggest anonymously collecting data associated with at least one set top box in a privacy compliant manner, as recited in independent claims 1, 27, and 30.

Salgonicoff states:

In accordance with the invention, there are several ways to develop the initial customer and content profiles for such characteristics. For example, the initial customer profile may be assigned on the basis of the customer's zip code or other characteristic demographic information. In other words, the profile may be set to a profile typical of the customer's zip code area or to a typical profile *determined by interviews* or empirically by monitoring what customers watch. Similarly, each customer may be assigned a generic customer profile which is personalized over time through the profile adjustment techniques to be described below. Alternatively, a customer may be *asked to name* several of his or her favorite movies and television shows so that an initial customer profile may be determined by combining or averaging the content profiles of the selected movies and television shows. In addition, each customer may *complete a ballot* for each viewing mood.

(Salgonicoff, col. 11, line 60 – col. 12, line 9) (Emphasis Added).

Salgonicoff further states:

In accordance with the invention, a passive feedback technique is provided whereby *the programming viewed by the customers are automatically monitored and used to adjust the customer profiles*. That technique will be described in more detail in Section V below. This section will instead refer to an *active feedback mechanism* which will be referred to as a "rave review."

(Salgonicoff, col. 14, lines 5-11) (Emphasis Added).

In other words, Salgonicoff teaches that after an initial profile is created using a user submitted data or a standard profile is used, the profile is adjusted based on what the user actively indicates or is monitored as watching. Salgonicoff requires that the specific viewing

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habits of a specific customer are monitored and stored in such a way that those viewing habits may be traced directly back to the customer through the customer profile. The customer data is not anonymous and not privacy compliant. Salgonicoff identifies the user with the data and, as such, does not perform monitoring of the user anonymously in a privacy compliant manner. Applicants respectfully submit, therefore, that elements of independent claims 1, 27, and 30 are neither shown nor suggested by Salgonicoff.

Applicants submit that Jenkins and Gerace do not overcome the above-noted deficiencies of Salgonicoff. Jenkins discloses creating marketing profiles and for directing customized offers to consumers while preserving consumer privacy (*See e.g.*, Abstract). Gerace discloses a computer network providing targeting of appropriate audience based on psychographic or behavioral profiles of end users (*See e.g.*, Abstract).

Thus, Applicants submit that neither Salgonicoff, Jenkins, Gerace, nor any combination thereof, teach or suggest anonymously collecting data associated with at least one set top box in a privacy compliant manner, as recited in independent claim 1.

Additionally, neither Salgonicoff, Gerace, Jenkins nor any combination thereof teach or suggest at least one set top box user model is derived using an inverse demographic matrix method, as recited in independent claims 13, 16, 19, and 23 and dependent claim 8. The Office Action cites the regression analysis of Gerace as teaching the inverse demographic matrix method. However, the regression analysis of Gerace is not Applicant's claimed inverse demographic matrix method. The inverse demographic matrix method is described in

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detail beginning at paragraph 134 of the specification. In this inverse demographic matrix method, a least squares approach may be but one step in the claimed inverse demographic matrix method, depending on the amount of demographic characterizations versus the number of geographical units, in this case zip codes. The inverse demographic matrix may also be applied differently depending on the demographic characterizations involved. As such, regression analysis is not the same as or equivalent to, the entire claimed inverse demographic matrix method. Applicants respectfully submit, therefore, that elements of independent claims 13, 16, 19, and 23 are neither shown nor suggested by Salgonicoff and Gerace.

Applicants submit that independent claims 1, 13, 16, 19 and 23 contain allowable subject matter, and as such, is in condition for allowance. Claims 3-12, 14-15, 17-18, 20-22, and 24-26 depend from independent claims 1, 13, 16, 19 and 23 and are therefore also in condition for allowance. Accordingly reconsideration and withdrawal of the rejections of claims 1 and 3-26 under 35 U.S.C. §103 are respectfully requested.

For all the above reasons, the Applicant respectfully submits that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application.


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The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON

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